IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No. 1522 of 1998

For Approval and Signature:

HONOURABLE MR.JUSTICE C.K.BUCH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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NIRMALKUMAR M GANDHI - Applicant(s)

Versus

GUJARAT TRADING CO. & 2 - Opponent(s)

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Appearance :

MR UTPAL M PANCHAL for Applicant(s) : 1,
MR DR BHATT for Opponent(s) : 1 - 3.

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CORAM : HONOURABLE MR.JUSTICE C.K.BUCH

Date : 05/09/2005

ORAL JUDGMENT

This Revision Application is preferred by the petitioner- original plaintiff against the order dated 17.07.1998 passed by the ld. Civil Judge (S.D.), Anand in Special Summary Suit No. 927/1989 whereby the ld. Trial

Judge has rejected the request to amend the plaint qua the reliefs prayed in the suit preferred by the plaintiff under O.6 R.17 of CPC.

The present Revision Application was preferred and admitted before the application of amended CPC and, therefore, the same shall have to be decided on merits.

By way of amendment, the petitioner plaintiff has attempted to get relief clause amended as to the rate of interest claimed by him on the suit amount from 6% to 15%. In respective paras 5 & 7 of the plaint, it is mentioned that the plaintiff be paid suit amount with interest at the rate of 6% p.a. but by preferring application for amendment in the plaint, it was prayed that figure “6%” be permitted to be substituted by figure “15%” and thus prayed that plaintiff be paid suit amount with interest at the rate of 15% p.a. It was submitted that at the relevant point of time, Co.Op. Banks and other Private Companies were paying aforesaid rate of interest to its depositors. The ld. Trial Judge, after considering the facts as well as relevant law, rejected the request and refused to grant permission to amend the relevant paras 5 & 7 of the plaint. It is not the say of the plaintiff in the application that 15% was the agreed rate of interest between the parties. On

the contrary, it is impliedly admitted that he had claimed interest at the rate of 6% p.a. on the suit amount, but now as the suit has been disposed of after a reasonable period of time and as the same had remained pending for about 6 years, he should be awarded interest at the rate of 15%.

The Court is not satisfied with the grounds seeking amendment in the rate of interest as prayed for. Rejection of the application under O.6 R.17 of CPC preferred by the plaintiff petitioner is found absolutely legal and valid. Jurisdiction of this court in exercising powers under section 115 of CPC is very limited and there is no perversity and illegality found in the order under challenge. Hence, there is no merits in the Revision Application.

In view of above, Revision Application is dismissed. Rule discharged. No costs.

(C.K. BUCH, J)

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